

IN THE NAME OF ALLAH, THE BENEFICENT,
THE MERCIFUL,

As-Salam-Alaikum, which means peace be unto U.

Clerk. Please filed this with civil Action
NO: 05-399-JJF

James A. Wilson
et al

S.C.D.
Sergeant, Jr. 1994



STATE OF DELAWARE
DEPARTMENT OF CORRECTIONCLASS I X CLASS II _____

APPEAL NOTICE

DR#: _____

INMATE NAME: ELDON T. POTTS INST#: S.C.I DATE: 11/9/05
 HEARING DATE: 11/9/05 VIOLATION: 1.06/200.203DISORDERLY OR THREATENING E
 HEARING DECISION: GUILTY
 SANCTION: 10 days LOAP

I understand I have 72 hours in which to file a written notice of appeal to the Class I Hearing Officer in the case of an appeal from a Class II Hearing decision or to the Warden in the case of an appeal from a Class I Hearing decision.

APPEAL: THE CONDUCT OF MY DISCIPLINARY HEARING BY S/LT. HENNESSY DENIED ME
THE DUE PROCESS OF LAW. (A) THE REFUSAL TO CALL ALL THE PLAINTIFF'S
WITNESSES DENIED DUE PROCESS. OUT OF EIGHT WITNESSES ONLY THREE OF
PLAINTIFF'S WITNESSES WERE CALLED THAT WERE ON PLAINTIFF'S SHEET.
COURTS HAVE REPEATEDLY HELD THAT THE REFUSAL TO CALL WITNESSES WITH
PERSONAL KNOWLEDGE OF THE INCIDENT IN QUESTION DENIES DUE PROCESS. FOX
V. COUGHLIN, 893 F.2d 475, 478 (2d Cir. 1990). ALSO, FOOD SERVICE CHRIS
SENATO INSTRUCTED HEARING OFFICER S/LT. HENNESSY AS TO WHICH WITNESSES
TO CALL OFF MY LIST. (EX. A) CHRIS SENATO IS A NON-DISCIPLINARY OFFICER
WHO IS OUT OF HIS BOUNDARY. CHRIS SENATO ASSISTED c/o EVANS IN THE
PREPARATION IN THE LEAD TO MY INFRACTION. THIS CONDUCT WAS BIAS AGAINST
ME BY CHRIS SENATO SINCE HE WAS PRESENT AT MY HEARING AND ASSIST S/LT.
HENNESSY IN FINDING ME GUILTY, THEREFORE DENIED ME MY RIGHT TO A FAIR
AND IMPARTIAL HEARING. S/LT. HENNESSY FAILED TO GIVE ME A SUMMARY OF
MY WITNESSES TESTIMONY. (INMATE MANUAL PAGE 5 OF 13, section J)

Eldon T. Potts
 INMATE'S SIGNATURE

APPEAL DECISION: _____

(B) THE FAILURE TO PROVIDE A MEANINGFUL EXPLANATION OF THE FINDING OF GUILT DENIED DUE PROCESS. PRISONERS WHO ARE FOUND GUILTY OF DISCIPLINARY CHARGES ARE ENTITLED TO A "WRITTEN STATEMENT BY THE FACTFINDERS AS TO THE EVIDENCE RELIED ON AND THEREASON' FOR THE DISCIPLINARY ACTION." WOLFF v. MCDONNELL, 418 U.S. at 565. S/LT. HENNESSY PROVIDED NO EXPLANATION WHATEVER FOR BELIEVING THE WRITTEN REPORT OF THE OFFICER WHO WASN'T PRESENT OVER THE PERSONAL TESTIMONY OF ME. (CHRIS SENATO WAS PRESENT WHEN WRITTEN STATEMENT WERE MADE AGAINST ME)

(C) CONFRONTATION AND CROSS-EXAMINATION (INMATE MANUAL PAGE 5 OF 13, SECTION J) AN OPPORTUNITY TO CONFRONT AND CROSS EXAMINE HIS ACCUSER AND ALL ADVERSE WITNESSES, UNLESS DOING SO COULD BE HAZARDOUS TO INSTITUTIONAL SAFETY, ORDER AND SECURITY OR COULD ENDANGER THE PHYSICAL SAFETY OF THE WITNESS. SUCH REASON FOR DENIAL WILL BE STATED IN WRITING. I WAS NEVER GIVEN THE RIGHT TO CONFRONT MY ACCUSER (C/O EVANS). HOWEVER FOOD SERVICE'S CHRIS SENATO WAS PERSENT DURING MY HEARING, WHO DID NOT WRITE ME UP AND SHOULD NOT HAVE BEEN AT MY HEARING AND THAT'S VIOLATION OF MY DUE PROCESS.

(D) DENIED RIGHT TO COUNSEL (SEE NOTICE OF DISCIPLINARY HEARING EX. B) (SIXTH AMENDMENT)

DEPUTY WARDEN YOU HAVE THE AUTHORITY TO CORRECT THIS VIOLATION OF MY DUE PROCESS UNDER ADMINISTRATIVE APPEAL.

ELDON T. POTTS

Eldon T. Potts
SBI # 211193

CC TO:

RICHARD KEARNEY, WARDEN
ETERNAL AFFAIRS
245 MCKEE ROAD
RUTH ANN MINNER, GOVERNOR
PEARL GREEN, GRANDMOTHER

I/M: James Wilson BLDG: Mont/6401
SUSSEX CORRECTIONAL INSTITUTION
P.O. BOX 500
GEORGETOWN, DELAWARE 19947

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